

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CW KEARSE, LLC d/b/a
FORSYTHIA,

Plaintiff

v.

CUMBERLAND MUTUAL FIRE
INSURANCE COMPANY,

Defendant

CIVIL ACTION

No. 23-3936

ORDER

AND NOW, this 9th day of May, 2024, upon consideration of Cumberland Mutual Fire Insurance Company's Partial Motion to Dismiss (Doc. No. 19), CW Kearsse's Response in Opposition (Doc. No. 20), and Cumberland Mutual's Reply in Support of the Partial Motion to Dismiss (Doc. No. 21), and for the reasons set forth in the accompanying memorandum, it is **ORDERED** that:

1. The Partial Motion to Dismiss the Amended Complaint (Doc. No. 19) is **GRANTED**.
2. CW Kearsse's bad faith claim (Count II) of the Amended Complaint is **DISMISSED WITHOUT PREJUDICE**.
3. **Within twenty-one (21) days of this Order**, CW Kearsse may, consistent with the Memorandum, file an amended complaint reasserting its claims with additional factual allegations to support Count II. If CW Kearsse fails to timely file an amended complaint, the case will proceed on Count 1 of the Amended Complaint, *see* Doc. No. 14.

BY THE COURT:



GENE E.K. PRATTER

UNITED STATES DISTRICT JUDGE